

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

FORREST LEE STOKES, PRO SE, §
also known as FORREST STOKES, §
TDCJ-CID No. 1244719, §
Previous TDCJ-CID No. 667006, §
Previous TDCJ-CID No. 971862, §
§
Plaintiff, §
§
v. § 2:12-CV-0219
§
RISSIE OWENS and JACKLYN McNIEL, §
§
Defendants. §

ORDER OF DISMISSAL

Plaintiff FORREST LEE STOKES, while a prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division, originally filed suit pursuant to Title 42, United States Code, section 1983 complaining against seven defendants employed by or otherwise connected with the Texas Department of Criminal Justice and the Texas Board of Pardons and Paroles and has been granted permission to proceed *in forma pauperis*. By order issued October 17, 2012, plaintiff's claims against defendants Khandheria, McDonald, Turrie, Holligan, and Peikert were severed from the instant cause and transferred to the United States District Court for the Northern District of Texas, Lubbock Division. Plaintiff was ordered to file an amended complaint in this cause on the form promulgated by the Court.

On December 13, 2012, plaintiff filed an Amended Complaint.

On December 20, 2012, the Magistrate Judge issued a Report and Recommendation analyzing plaintiff's Amended Complaint and recommending dismissal for being in violation of

Rule 8, FED.R.CIV.PRO., with prejudice as frivolous and with prejudice to being asserted again until the *Heck* conditions are met. *Johnson v. McElveen*, 101 F.3d 423, 424 (5th Cir. 1996). It was the further RECOMMENDATION of the Magistrate Judge to the United States District Judge that plaintiff's claims sounding in habeas be dismissed without prejudice to being reasserted in a habeas action.

Plaintiff filed his Objections on December 31, 2012.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, as well as the objections filed by the plaintiff.

The Court is of the opinion that plaintiff's objections should be OVERRULED and the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court

This Court, therefore, does OVERRULE plaintiff's objections, and does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge

IT IS THEREFORE ORDERED that the Civil Rights Complaint by FORREST LEE STOKES is DISMISSED WITHOUT PREJUDICE FOR BEING IN VIOLATION OF RULE 8, FED.R.CIV.PRO., WITH PREJUDICE AS FRIVOLOUS AND WITH PREJUDICE TO BEING ASSERTED AGAIN UNTIL THE *HECK* CONDITIONS ARE MET. *Johnson v. McElveen*, 101 F.3d 423, 424 (5th Cir. 1996). Plaintiff's claims sounding in habeas are DISMISSED WITHOUT PREJUDICE TO BEING REASSERTED IN A HABEAS ACTION.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Any pending motions are DENIED.

The Clerk shall send a copy of this order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box 13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

It is SO ORDERED.

Signed this the 14th day of January, 2013.



MARY LOU ROBINSON

United States District Judge